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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,770	06/29/2001	Mary Purvis	PUR-001/CON	5937

7590 05/09/2002  
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Washington, DC 20036

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/893,770

Applicant(s)

PURVIS, MARY

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45-62 is/are pending in the application.
- 4a) Of the above claim(s) 47-50 and 55-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45, 46, 51-54 and 62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Applicant's election with traverse of species III in Paper No. 7 is acknowledged. The traversal is on the ground(s) that there is no undue burden on the examiner to search and consider the various species. This is not found persuasive because the species are not held by applicant to be obvious variants and therefore would require separation consideration of each of the affixation devices as individually patentable.

The requirement is still deemed proper and is therefore made FINAL.

***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

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The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because line 3 does not make sense as written. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

Claims 45-46 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 45, line 9, "said insulating cooler device" lacks antecedent basis, as none is positively previously defined. In lines 10-12, there is insufficient methodology or structure recited to provide for any non-destructive exchange to have occurred.

***Claim Rejections - 35 USC § 102***

Claims 45 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Miller et al. (D369, 946), Miller et al. (D378,562) and conventional Coleman coolers. Disclosed by each is a method comprising providing a structural member (the lid of each, with indicia as shown (Coleman cooler lids being brightly colored)), the lid being affixable to a base via an affixation device (Coleman coolers have an affixing perimeter rib on the lid), the structural member being releasably affixed to a planar portion of an insulating cooler device.

As to claim 51, the Miller patents disclose sports-related logos.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 45 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (D369,946 and D378,562) in view of conventional Coleman coolers. To any degree it may be argued the Miller patents do not have the lids affixed to the base,

to employ a similar lid structure as found in a conventional Coleman cooler would have been obvious in order to better fix the lid to the base.

Claims 52-53 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (D378,562) in view of Blackwelder (5,803,266). The Miller patent discloses various lids provided on the same base. Accordingly, a method is inherently disclosed that comprises providing an insulating cooler device (the base), providing a plurality of interchangeable structural members (the lids of Figures 1, 5 and 9) for the same type of insulating cooler device. Blackwelder discloses applying different attachments (30) to a container for limited periods of time, dependent on the whim of the user. To modify the interchangeability of Miller et al. employing known attachment means, as disclosed by Blackwelder, would have been obvious in order to provide different decoration at different times, as suggested by Blackwelder.

As to claim 62, Miller discloses sports themed logos.

Claims 46 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 45 and 52 above, and further in view of either one of Forrer (2,919,829) and Brodbeck (2,584,254). Forrer and Brodbeck each disclose applying adhesive to a container to allow interchanging indicia on the container. To modify the art previously employed employing adhesive as the releasable affixing means would have been obvious as a substitution of equivalent affixing means recognized in the art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are sports indicia coolers.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113.

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Bryon Gehman at telephone number (703) 308-3866. My work schedule is normally Tuesday through Friday from 7:30 am through 5 pm, with Friday being worked at an alternative site away from my office.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 872-9302 and (703) 872-9303. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1113.

BPG  
May 7, 2002

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name being the most prominent.

Bryon P. Gehman  
Primary Examiner